



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/691,781

10/23/2003

Changyong Lee

4220-123 US

7161

7590 06/12/2008
Diane Dunn McKay, Esq.
Mathews, Collins, Shepherd & McKay, P.A.
Suite 306
100 Thanet Circle
Princeton, NJ 08540

EXAMINER

MAHAFFEY, KELLY J

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

06/12/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/691,781	Applicant(s) LEE ET AL.	
	Examiner Kelly Mahafkey	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 15 February 2008.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 4 is/are pending in the application.

 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 4 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Amendments made February 15, 2008 have been entered.
Claim 4 remains pending.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Komatsu et al. (US 3892058) in view of Meyer. The references and rejection have been incorporated herein and as cited in the office action mailed September 26, 2007.

Response to Arguments

Applicant's arguments filed February 15, 2008 have been fully considered but they are not persuasive.

Applicants argue unexpected results are obtained from the process of treating rice as instantly claimed, more specifically applicant argues that the claimed sterilization step unexpectedly provides a more fluffy rice. Applicant supports this statement with a declaration, which is not convincing and is addressed below, and with the statement that "the texture of the rice *may* be changed depending on the conditions for sterilization". Applicant's statement that the texture of the rice may be changed is also not convincing as applicant has not shown a definite or unexpected result. One of ordinary skill in the art at the time the invention was made would expect drained rice to which water was applied to have an altered texture during heating. It is common sense that heating can alter the structure of rice, especially when the rice grains are not dry. Thus, it is unclear as to what is unexpected about applicant's results.

Applicant argues that the rice produced by the method as instantly claimed is different from that of the references of record because the Komatsu teaches of treating rice in acidified water prior to oil coating. Applicant's argument is not convincing as the features upon which applicant relies (i.e., the exclusion of treating the rice in acidified

water prior to oil coating) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). There is nothing in the claims that limits the method to only the recited steps; the claim is "comprising" specific steps in a specific order, and thus, the method can include other processing steps.

Applicant's declaration filed February 15, 2008 has been fully considered but is not convincing.

Applicant's declaration is not convincing. Applicant argues in the declaration that the rice as instantly claimed provides unexpected fluffiness as a result of the claimed sterilization step. Applicant supports this argument with experimental data. Applicant compares the hardness and stickiness of the rice prepared by the instantly claimed sterilization method, i.e. sterilization at a temperature of 130-150C for 4-8 seconds with a repetition of 4 to 10 times ("Sterilization Condition 1") with the sterilization method of the closest piece of prior art of record, the primary reference, Komatsu, i.e. sterilization at 130-160C for 1-80 minutes, and with the method of the secondary reference ("Sterilization Condition 2"), Meyer, i.e. sterilization at 100C for 30 minutes ("Sterilization Condition 3"). Applicants comparison is not sufficient to show unexpected results for the following reasons: (1) Although applicant compares the closest prior art of record, applicant's data does not represent the range of sterilization conditions as taught by Komatsu, more specifically, applicant does not compare the teachings of Komatsu which fall within applicant's claimed sterilization process, i.e. sterilization at 130-150C for 60-80 seconds; (2) applicant does not clearly identify the pertinent sterilization conditions for the single set of experimental data provided, i.e. applicant provides temperature ranges for the single results of sterilization; Applicant's single set of data is based upon a temperature range that varies by 20C (Sterilization Condition 1) and of 30C (Sterilization Condition 2), thus it is unclear as to at which temperature sterilization occurred and as to if the overlapping teachings of the prior art and the instantly claimed invention have been compared; (3) and as stated above, it is unclear as to what is

unexpected about applicant's results as it is common sense that heating can alter the structure of rice, especially when the rice grains are not dry.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Mahafkey whose telephone number is (571) 272-2739. The examiner can normally be reached on Monday through Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lien Tran/

/Kelly Mahafkey/

Application/Control Number: 10/691,781
Art Unit: 1794

Page 5

Primary Examiner
Art Unit 1794

Examiner
Art Unit 1794